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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,339	11/18/2003	Dwight J. Lockett	DN 3723	7619

2128 7590 08/15/2005

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/716,339	LOCKETT, DWIGHT J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dmitry Suhol	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claim 11 drawn to an invention nonelected without traverse in Paper dated 2/17/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Gabay '635. Gabay discloses a word isolator device containing all of the elements of the claims including, a thin elongated base portion (1) having a medially disposed aperture therethrough (viewing slot 6), a thin elongated slide member that fully occludes the viewing window (panel 2), the base and slide member being positionable and complementarily engageable with one another to permit slidable movement therebetween (col. 4, lines 58-59), the slide member being dimensioned such that a viewing window may be fully or partially occluded (figure 10 and col. 5, lines 10-12), the base portion and slide member positionable to rest on a flat surface (figure 2 where it

can be seen that the bottom of the device is flat and meant to be used with flat pages of text and therefore meets the above limitation). Regarding claim 2, a base portion comprising a sheet-like member folded over on to itself (figure 2 where the rectangular base 1 is considered to be sheet-like and folded over as it is formed of a sheet material and folded along respective edges and sides) to define upper and lower portions (portions above and below slot 11) and an intermediate slot therebetween (slot 11), an upper and lower portions including an elongated opening therein (opening 6), the slide member fitting within the intermediate slot of the base and slidably moveable therein to fully or partially occlude the viewing window (figure 10 and col. 5, lines 10-12). A lower portion including an outer surface adapted to abuttingly engage a generally flat surface, as required by claim 3, is shown in figure 2, where it can be seen that the bottom of the device is flat and meant to be used with flat pages of text and therefore meets the above limitation. A slide member and base member having complementary engagement portions for mating to one another and maintaining a slidable relationship, as required by claim 4, is described at col. 5, lines 6-12.

Claims 1-2 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber '533. Weber discloses a device containing all of the claimed elements including a thin elongated base portion (sleeve 1) having a medially disposed aperture therethrough (viewing slot 8 and 9), a thin elongated slide member that fully occludes the viewing window (card 3), the base and slide member being positionable and complementarily engageable with one another to permit slidable movement

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therebetween (cols. 3-4, lines 65+ and 1-2, respectively), the slide member being dimensioned such that a viewing window may be fully or partially occluded (figure 3), the base portion and slide member positionable to rest on a flat surface (figures 1-3). Regarding claim 2, a base portion comprising a sheet-like member folded over on to itself (sleeve 1) to define upper and lower portions (portions 4 and 5) and an intermediate slot therebetween (col. 2, lines 58-59), an upper and lower portions including an elongated opening therein (openings 8 and 9), the slide member fitting within the intermediate slot of the base and slidably moveable therein to fully or partially occlude the viewing window are shown in figures 1-3, where it can be seen that the card 3 is sized such that nothing would prevent it from being placed in the sleeve and sliding back and forth therein. A slide member and base member having complementary engagement portions/flanges (10) for mating to one another and maintaining a slidable relationship, as required by claims 4-5, are described at cols. 3-4, lines 65+ and 1-2, respectively.

### ***Allowable Subject Matter***

Claims 7 and 8-10 are allowed.

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed June 2<sup>nd</sup>, 2005 have been fully considered but they are not persuasive. Applicants argue that their device differentiates from the device of Gabay in that the applicants device does not require a case or encasement but rather the applicants device is constructed of a folded sheet of paper which may be open on three sides and does not use grooves the device of Gabay. In response the examiner points out that applicants claims in no way limit the claimed device to having open sides, lack of grooves or lack of an encasement, therefore the device of Gabay encompasses all of the claimed elements as stated above and in the previous office action.

Applicants further argue that the device of Gabay does not read onto the limitation of "sheet-like" and "folded over", especially since Gabay discloses that his device is plastic. In response the examiner points out that, lacking any distinguishing features and as stated above, the rectangular base 1, of Gabay, is considered to be sheet-like and folded over as it is formed of a sheet material and folded along respective edges and sides. With respect to the materials used in the base construction it is pointed out that applicants do not claim any specific materials and plastic qualifies as a material which may be sheet like.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dmitry Suhol  
Examiner  
Art Unit 3725

ds